

Author: Alquist Analyst: Gloria McConnell Bill Number: AB 1396
Related Bills: See Legislative History Telephone: 845-4336 Amended Date: 06/08/98
Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Child Support Compliance Act of 1998

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

X OTHER - See comments below.

SUMMARY OF BILL

Under this bill, all written contracts entered into by state agencies, including the Franchise Tax Board (FTB), would be required to contain: (1) an acknowledgment by the contractor (vendor) that it is complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by Employment Development Department (EDD), and (2) an agreement to make payroll records available for review for child support enforcement purposes by designated agencies, including the FTB.

Additionally under this bill, FTB, as a state agency, would have to provide data about its employees, licensees, contractors and vendors to the California Parent Locator Service (CPLS), FTB and certain others for child support enforcement purposes. Under the bill, FTB could receive this data from all state agencies.

EFFECTIVE DATE

This bill would be effective and operative on January 1, 1999.

SUMMARY OF AMENDMENT

This amendment deletes the provisions related to Welfare Reform and food commodity programs and adds the provisions that would be known as the Child Support Compliance Act of 1998, which are the same provisions in AB 1666.

LEGISLATIVE HISTORY

AB 573 (Stats. 97, Ch. 599), AB 1395 (Stats. 97, Ch. 614), AB 1666, AB 1630.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

Department Director

Date

Gerald H. Goldberg

6/29/98

PROGRAM HISTORY/BACKGROUND

Federal law requires each state to have a single agency responsible for enforcing child support, which for California purposes is DSS. The county district attorneys (DAs) are delegated responsibility for establishing paternity and enforcing child support, which includes collecting current payments and delinquencies. Once a court order is obtained, DAs can serve by mail an earnings assignment order for current support and may include an additional amount for arrears that have accrued as of the date of the order. Once an ordered amount becomes delinquent, DAs search for assets of the obligor and take collection actions as necessary to collect the delinquent account and may refer the delinquency to FTB for collection.

In 1993 (Speier, AB 3589; Stats. 92, Ch. 1223), FTB began collecting delinquent child support through a pilot project in which DAs in six counties could voluntarily refer their delinquent child support accounts to FTB for collection as though they were delinquent personal income taxes. In 1995, the program was expanded to include voluntary referral from all counties (Speier, AB 923; Stats. 94, Ch. 906). This year, effective on January 1, 1998, DAs are required to refer child support obligations that are 91 days delinquent and may voluntarily refer those less than 91 days delinquent to Franchise Tax Board (FTB) for collection as though they are delinquent personal income taxes (AB 1395, Escutia; Stats. 97, Ch. 614).

Additionally, DAs are authorized to refer current child support orders to FTB for collection, in which case FTB could issue wage assignment orders (AB 573, Kuehl; Stats. 97, Ch. 599).

As federally mandated, the California Parent Locator Service (CPLS) is established in the DOJ to assist in the location of absent parents and enforce child support. Under California and federal law, governmental agencies are required to share information with the CPLS for this purpose. When a DA requests asset information, CPLS generally sends the request on a weekly basis for a basic search that includes EDD, FTB and DMV records. FTB, for child support collection purposes, requests from the CPLS only that information that is not available to it for tax purposes or information that is otherwise more readily available from other sources.

SPECIFIC FINDINGS

Currently, FTB contracts for various services, in accordance with requirements outlined in the State Administrative Manual and rules/regulations of the Department of General Service.

Currently, employers are required to report the names and wages of their employees to EDD for the administration of, among other programs, child support enforcement. In addition, federal law requires each state to establish a new employee (hire) registry to which the state's employers must report their new hires within 20 days. The EDD maintains California's new employee/hire registry. This information is available to FTB for child support and tax collection purposes.

Currently, DAs serve by mail earnings assignment orders for current support and effective January 1, 1998, FTB may also issue earnings assignment orders to collect current support. Upon receipt of an order, generally, the employer must begin to withhold from the employee's earnings no later than 10 days after

service. The order continues in effect unless a termination notice is served. If an employer fails to withhold and remit earnings in response to an earnings assignment order, the employer is liable, through a civil action, for the amount not withheld or otherwise not paid.

Under this bill, FTB, and other state agency, contracts would have to contain an acknowledgment that the contractor is complying with earnings assignment orders and the requirements of the New Hire Registry. Also, these contractors must agree to make their payroll records available to DSS, the DOJ, FTB or any other agencies for child support enforcement purposes.

Currently, for both tax and child support enforcement purposes, FTB can get information about a debtor from third-parties, unless expressly prohibited. FTB is authorized to examine employer records that may be relevant to the collection of tax and child support. Additionally, FTB is expressly authorized to get licensee information from the various state licensing boards and employer information from EDD.

Under this bill, FTB would have express authority to receive data from all state agencies about their employees, licensees, contractors and vendors for purposes of administering its child support collection programs.

Implementation Consideration

The bill would require FTB, as a state agency, to provide to the CPLS and the FTB, upon request, data with respect to contractors and vendors for child support enforcement purposes (page 6, lines 18 through 22). However, there is no requirement that the contract and vendor information be captured in a manner that can be readily accessible by or exchanged through magnetic media or other electronic means with CPLS and the FTB. If the author intends that each state agency make specific contract/vendor information available on an automated data base, which could be routinely accessed in the event CPLS or FTB makes a request, this should be clarified. However, state agencies, including the FTB, undoubtedly would incur additional costs.

Technical Consideration

Section 11478.5(a)(10) of the Welfare and Institutions Code, which is amended by this bill, makes reference on page 5, line 24 to Section 19285.1 of the Revenue and Taxation Code (RTC). This RTC section, however, was renumbered to Section 19548 effective January 1, 1994; therefore, reference to Section "19285.1" should be amended to read "19548." Attached is the suggested amendment.

FISCAL IMPACT

Departmental Costs

To require the acknowledgments and agreement in FTB's contracts as the bill provides is not anticipated to significantly increase the department's administrative costs.

Tax Revenue Estimate

Because this bill generally requires only acknowledgments that the contractor is in compliance with the law and does not provide for additional information sources, it is estimated that this bill would not significantly improve child support collections.

This analysis does not consider the possible changes in employment, personal income or gross state product that could result from this bill.

BOARD POSITION

Pending. At its meeting of March 26, 1998, the Franchise Tax Board took a neutral position on AB 1666, which contains the same provisions that are in this bill, as amended. The vote on AB 1666 was 2-0, with Robin J. Dezemmer, on behalf of Member Craig L. Brown, abstaining.

FTB'S SUGGESTED AMENDMENTS TO AB 1396
As Amended June 8, 1998

AMENDMENT 1

On page 5, line 24, strike out "19285.1 and insert:

19548